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In the Supreme Court

OF THE

United States

OCTOBER TERM, 1961

No. 28

UNITED STATES OF AMERICA, *Appellees*,
vs.
CHARLES PAUL, *Director of Agriculture of the State of California*, AND STANLEY MOSK, *Attorney General, State of California, Appellants*.

AMICUS CURIAE BRIEF IN SUPPORT OF APPELLANTS

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August 29, 1961.

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ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, SOUTHERN DIVISION

AMICUS CURIAE BRIEF

Under Rules 42.1 and 42.4, the State of Nevada files this Brief as Amicus Curiae, as follows:

INTEREST OF THE AMICUS CURIAE

The State of Nevada, Amicus Curiae herein, has an interest in the case in the following respects:

A. The Legislature of the State of Nevada has enacted legislation entitled "Stabilization and Marketing of Fluid Milk

and Fluid Cream" (Nevada Revised Statutes 584.325 through 584.690)[1]. Said legislation is patterned after and closely follows the provisions of the California milk stabilization act, which is directly in issue in the within cause of action on appeal to this Court (Appellants' Jurisdiction Statement, page 2, line 15).

B. There is pending in the second Judicial District Court of the State of Nevada, in and for the County of Washoe, an action entitled "STATE DAIRY COMMISSION, STATE OF NEVADA vs. CRESCENT CREAMERY, INC.", being No. 186636, in Department No. 1, in which the identical questions are at issue as in the within cause, with respect to the constitutionality of the provisions of the Nevada Statutes, as cited herein, when applied to sales of milk and dairy products to the Stead Air Force Base, Nevada.

STATEMENT

The opinion of the District Court for the Northern District of California, Southern Division, as reported in 190 Fed. Supp. 645, which was decided on March 27, 1961, and the Injunction and Order issued pursuant to said opinion on the 17th day of April, 1961, had their immediate effect in the application of the provisions of Nevada Revised Statutes, as cited, the Rules and Regulations passed pursuant thereto by the State Dairy Commission,[2] State of Nevada, and upon the prices, as promulgated by the State Dairy Commission, State of Nevada, on sales

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[1]Nevada Revised Statutes are attached hereto as Appendix A.

[2]Pertinent regulations of the State Dairy Commission are attached as Appendix B. The minimum wholesale prices for fluid milk and fluid cream sold to departments or agencies of the federal, state and local government, licensed hospitals, and accredited schools may be reduced not to exceed five percent (5%) below minimum wholesale price contained in the appropriate area schedules, providing that for payment within thirty (30) days an additional one percent (1%) may be allowed.

to Government military installations located within the confines of Nevada, as follows:

1. In bids for delivery of milk and dairy products to the Stead Air Force Base, for the period commencing July 1, 1961 through August 31, 1962, Nevada milk distributors were confronted with the situation that, while they were bound by the provisions of the Nevada milk stabilization act, and the promulgated prices as set by the Commission, California bidders were no longer bound by any such regulations or promulgated prices. The result was that, in order to compete and retain this milk business for the Nevada milk industry, these Nevada distributors were forced to ignore the aforesaid statutory and regulatory provisions, and submit bids lower than the promulgated price. All of which has resulted in a considerable loss to the dairy farmers of Nevada, and has resulted in defeating the intent and purposes of the Nevada statutory and regulatory enactments covering the sale of milk and dairy products.

2. Dairy farmers of Nevada whose milk is sold by distributors to the United States had been receiving $1.60 per pound of butterfat; since the District Court decision, returns to these same dairy farmers have dropped to a low of $1 per pound of butterfat. These returns are below the cost of production and threaten a dairy farm investment within Nevada of approximately $10,000,000. In the one instance cited of sales to the Stead base, the Nevada farmers will suffer a loss of $36,356.80, based upon the price bid as compared to the promulgated price, less all allowable discounts. The Nevada dairy industry is a small one as compared to that of other states and this amount is having and will have a very substantial detrimental effect upon the economic status of the industry.

3. Sales of milk and dairy products to Federal military

installations within the State of Nevada amount to five percent (5%) of the total milk production in Nevada.

4. Milk is currently being sold at the Stead Air Force Base, through its commissary, at 17 cents a quart. Whereas, the retail price per quart of milk sold in the grocery stores in the Reno area, adjacent to the Stead base, is 27 cents a quart. Retail grocery stores are therefore being discriminated against since the price that they pay for the milk at wholesale (e.g., 23.5 cents) is higher than the retail sales price at the commissary. These discriminations give to those entitled to purchase through the commissary an inequitable, unfair, and privileged purchasing status over other citizens of Nevada, and give this privileged class rights not enjoyed by the public generally, as stated on page 8, line 6 of Appellants' brief.

ARGUMENT

The District Court decision has already had a disruptive and devastating effect on the economy of the dairy industry in California and this paralysis has crept into Nevada. Twenty other states, which have milk control agencies, will eventually, to a greater or lesser degree, feel the results of the decision.

CONCLUSION

It is submitted that the questions at issue on this appeal are of sufficient magnitude for consideration by this Court, and require a hearing on the merits, with oral argument before the decision.

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APPENDIX A

STABILIZATION AND MARKETING OF FLUID MILK AND FLUID CREAM

DEFINITIONS

584.325 Definitions. Unless the context otherwise requires, the definitions in NRS 584.330 to 584.385, inclusive, govern the construction of NRS 584.325 to 584.690, inclusive.

[18:387:1955]

584.330 "Commission" defined. "Commission" means the state dairy commission.

[20:387:1955]

584.335 "Consumer" defined. "Consumer" means any person who purchases fluid milk, fluid cream, or dairy products for consumption.

[30:387:1955]

584.340 "Dairy products" defined. "Dairy products" includes any product manufactured from milk or any derivative or product of milk.

[23:387:1955]

584.345 "Distributor" defined.

1. "Distributor" means any person, whether or not such person is a producer or an association of producers, who purchases or handles fluid milk, fluid cream or any other dairy product for sale, including brokers, agents, copartnerships, cooperative corporations, and incorporated and unincorporated associations.

2. The definition of "distributor" shall not include any of the following:

(a) Any retail store that is not engaged in processing and packaging fluid milk or fluid cream and does not purchase, or otherwise receive for resale, fluid milk, fluid cream or any other dairy product from sources outside the State of Nevada.

(b) Any establishment, where fluid milk or fluid cream is sold only for consumption on the premises, that is not engaged in processing and packaging fluid milk or fluid cream.

(c) Any person owned or controlled by one or more retail

stores or owned or controlled by one or more establishments where fluid milk or fluid cream is sold for consumption on the premises, which person is not actively and directly engaged in the processing and packaging of fluid milk or fluid cream.

(d) Any producer who delivers fluid milk or fluid cream only to a distributor.

[25:387:1955]—(NRS A 1959, 894)

584.350 "Fluid cream" defined. "Fluid cream" means cream as defined in NRS 584.325 to 584.690, inclusive, and any combination of cream and milk, or any fluid product of milk or cream sold under any trade name whatsoever, which is not packaged in hermetically sealed containers and which contains more than 11.6 percent milk fat and conforms to the health and sanitary regulations of the place where sold or disposed of for human consumption.

[22:387:1955]

584.355 "Fluid milk" defined. "Fluid milk" means any and all whole or concentrated milk that is produced in conformity with applicable health regulations for market milk of the place where such milk is consumed.

[21:387:1955]

584.360 "Marketing area" defined. "Marketing area" is any area within this state declared to be such in the manner prescribed in NRS 584.325 to 584.690, inclusive.

[28:387:1955]

584.365 "Person" defined. "Person" means any individual, firm, corporation, association or any other business unit.

[31:387:1955]

584.370 "Producer" defined.

1. "Producer" means any person who produces fluid milk from five or more cows or goats in conformity with the applicable health regulations of the place in which it is sold.

2. "Producer" includes any association of producers.

[24:387:1955]

584.375 "Producer-distributor" defined.

1. "Producer-distributor" means any person who is both a producer and a distributor of fluid milk and fluid cream.

2. For the purposes of NRS 584.325 to 584.690, inclusive, a producer-distributor shall be deemed to be a producer in any transaction involving the delivery of fluid milk or fluid cream produced by him to a distributor and shall be deemed to be a distributor in any transaction involving the delivery of fluid milk or fluid cream to a person who is not a distributor as defined in NRS 584.345.

[26:387:1955]

584.380 "Retail store" defined. "Retail store" means any person owning or operating a retail grocery store, restaurant, confectionery, or other similar business, where fluid milk or fluid cream is sold to the general public for consumption off the premises.

[27:387:1955]

584.385 "Stabilization and marketing plan" defined. "Stabilization and marketing plan" means any plan formulated and made effective by the commission within the legislative standards provided by NRS 584.325 to 584.690, inclusive.

[29:387:1955]

GENERAL PROVISIONS

584.390 Business affected with public interest; purpose of provisions. The production and distribution of fluid milk and of fluid cream is hereby declared to be a business affected with a public interest. The provisions of NRS 584.325 to 584.690, inclusive, are enacted in the exercise of police powers of this state for the purpose of protecting the health and welfare of the people of this state.

[12:387:1955]

584.395 Statements of fact and policy. The legislature declares that:

1. Fluid milk and fluid cream are necessary articles of food for human consumption.

2. The production and maintenance of an adequate supply of healthful milk of proper chemical and physical content, free from contamination, is vital to the public health and welfare.

3. The production, transportation, processing, storage, distribution or sale of fluid milk and fluid cream in the State of Nevada is an industry affecting the public health and welfare.

4. It is the policy of this state to promote, foster and encourage intelligent production and orderly marketing of commodities necessary to its citizens, including milk, and to eliminate speculation, waste, improper marketing, unfair and destructive trade practices and improper accounting for milk purchased from producers.

[13: 387: 1955]

584.400 Necessity for marketing areas; administrative authority of commission. It is recognized by the legislature that conditions within the milk industry of this state are such that it is necessary to establish marketing areas wherein different regulations are necessary, and for that purpose the commission shall have the administrative authority, with such additional duties as are herein prescribed, after investigation and public hearing, to prescribe such marketing areas and modify the same when advisable or necessary.

[14: 387: 1955]

584.405 Legislative determination. The foregoing statements in NRS 584.390 to 584.400, inclusive, of facts, policy and application of NRS 584.325 to 584.690, inclusive, are hereby declared a matter of legislative determination.

[15: 387: 1955]

584.410 Purposes of NRS 584.325 to 584.690. The purposes of NRS 584.325 to 584.690, inclusive, are:

1. To provide funds for administration and enforcement of NRS 584.325 to 584.690, inclusive, by assessments to be paid by producers of fluid milk or fluid cream or both, and from licenses issued to distributors in the manner prescribed herein.

2. To authorize and enable the commission to prescribe marketing areas and to fix prices at which fluid milk or fluid cream, or both, may be sold by producers, distributors and retailers, which areas and prices are necessary due to varying factors of costs of production, health regulations, transportation and other factors in the marketing areas of this state; but the price of fluid milk or fluid cream within any marketing area shall be uniform for all purchasers of fluid milk or fluid cream of similar grade or quality under like terms and conditions.

3. To authorize and enable the commission to formulate stabilization and marketing plans subject to the limitations

herein prescribed with respect to the contents of such stabilization and marketing plans and declare such plans in effect for any marketing area.

4. To enable the dairy industry with the aid of the state to correct existing evils, develop and maintain satisfactory marketing conditions and bring about a reasonable amount of stability and prosperity in the production and marketing of fluid milk and fluid cream.

[16:387:1955]—(NRS A 1959, 894)

584.415 Legislative intent: Construction.

1. It is the intent of the legislature that the powers conferred in NRS 584.325 to 584.690, inclusive, shall be liberally construed.

2. Nothing in NRS 584.325 to 584.690, inclusive, shall be construed as permitting or authorizing the development of conditions of monopoly in the production or distribution of fluid milk or fluid cream.

3. The terms and conditions under which producers, distributors and retailers may sell, purchase and distribute fluid milk or fluid cream shall be established by the commission for the purpose of insuring an adequate and continuous supply of pure, fresh, wholesome fluid milk and fluid cream to consumers at fair and reasonable prices in the several localities and markets of the state and under the varying conditions of production and distribution.

[17:387:1955]—(NRS A 1959, 895)

STATE DAIRY COMMISSION

584.420 State dairy commission: Creation; number of members; appointment; chairman.

1. There is hereby created the state dairy commission of the State of Nevada in which shall be vested the administration of the provisions of NRS 584.325 to 584.690, inclusive.

2. The commission shall consist of nine members appointed by the governor. The members shall select a chairman from among their number.

[1:387:1955]—(NRS A 1957, 264)

584.425 Terms of members of commission. The members of the commission shall serve at the pleasure of the governor; but no appointment shall extend beyond a period of 4 years from the date of expiration of the preceding appointment.

[2:387:1955]

584.430 Qualifications of members. Two members of the commission shall be producers, two members shall be distributors and one member shall be a producer-distributor, two members shall be operators of retail stores and two members shall be persons representing the consuming public who have no connection with producers, distributors, producer-distributors, or the retail stores.

[4:387:1955]—(NRS A 1957, 264)

584.435 Grounds for removal of member. Continued absence from meetings of the commission may constitute good and sufficient cause for removal of a member by the governor.

[3:387:1955]

584.440 Meetings; quorum; rules and regulations.

1. The members of the commission shall meet at such times and at such places as shall be specified by the call of the chairman or a majority of the commission; but a meeting of the commission shall be held at least once every 3 months.

2. Five members of the commission shall constitute a quorum and such quorum may exercise all the power and authority conferred on the commission; but no rules or regulations shall be adopted, amended or rescinded except by a majority vote of the entire membership of the commission.

3. The commission shall prescribe reasonable rules and regulations for its own management and government and for the conduct of public hearings required by NRS 584.325 to 584.690, inclusive, and it shall have only such powers and duties as authorized by law.

[5:387:1955]—(NRS A 1957, 264)

584.445 Compensation of members; expenditure of funds by commission.

1. While engaged in official business, each member of the commission shall receive a salary of $10 per day and the per diem expense allowance and travel expenses as fixed by law.

2. The commission may expend in accordance with law all moneys now or hereafter made available for its use.

[7:387:1955]

584.450 Seal. The commission shall adopt a seal for its own use which shall have imprinted thereon the words "State Dairy Commission, State of Nevada." The secretary of the commission shall have the care and custody of the seal.

[11:387:1955]

584.455 Employees: Appointment; duties; salaries.

1. The commission, with the approval of the governor, may arrange and classify its work and may appoint such assistants, deputies, agents, experts and other employees as are necessary for the administration of NRS 584.325 to 584.690, inclusive; prescribe their duties and fix their salaries in accordance with classifications made by the state department of personnel.

2. All assistants, deputies, agents, experts and other employees shall be subject to the provisions of chapter 284 of NRS.

[6: 387: 1955]

584.460 Dairy commission fund: Source and expenditures. There is hereby created in the state treasury a special fund designated as the dairy commission fund. All moneys received by the commission pursuant to NRS 584.325 to 584.690, inclusive, shall be paid into the fund and shall be expended solely for the enforcement of NRS 584.325 to 584.690, inclusive.

[8: 387: 1955]

584.465 Records of income and disbursements. The commission shall keep a separate record of the classes and sources of income credited to the dairy commission fund and of the disbursements therefrom.

[9: 387: 1955]

584.470 Powers of commission: Hearings; oaths; witnesses. For the purposes of NRS 584.325 to 584.690, inclusive, the commission shall have power to hold hearings, administer oaths, certify to official acts, take depositions, issue subpenas and summon witnesses.

[10: 387: 1955]

CLASSES OF FLUID MILK

584.475 Classification of fluid milk. Fluid milk may be classified for the purposes of NRS 584.325 to 584.690, inclusive, as provided in NRS 584.475 to 584.490, inclusive.

[32: 387: 1955]

584.480 Classification of fluid milk: Class 1. Class 1 comprises any fluid milk or the cream therefrom that is supplied to consumers as market milk or market cream or concentrated milk or any combination of market milk and market cream, or any market milk which is not packaged in hermetically

sealed containers, or any other dairy product in which the use of market milk is required by the provisions of the laws of the State of Nevada, or any fluid milk or cream therefrom which is used in standardizing market milk.

[33: 387: 1955]

584.485 Classification of fluid milk: Class 2. Class 2 comprises such milk or the cream derived therefrom, as cream is defined in NRS 584.325 to 584.690, inclusive, as is sold or disposed of by distributors in any form not included in classes 1 or 3.

[34: 387: 1955]

584.590 Classification of fluid milk: Class 3. Class 3 comprises such milk or the cream derived therefrom, as cream is defined in NRS 584.325 to 584.690, inclusive, as is used by distributors in the manufacture of butter and cheese other than cottage cheese.

[35: 387: 1955]

GENERAL POWERS OF THE COMMISSION

584.495 Enforcement of provisions; rules and regulations. The commission shall enforce the provisions of NRS 584.325 to 584.690, inclusive, and any stabilization and marketing plan initiated pursuant to the provisions of NRS 584.325 to 584.690, inclusive, and for that purpose may make such rules and regulations as it shall deem necessary.

[36: 387: 1955]

584.500 State instrumentality. The commission is hereby declared to be the instrumentality of this state for the purpose of administering and enforcing the provisions of NRS 584.325 to 584.690, inclusive, and to execute the legislative intent herein expressed, and is hereby vested with the administrative authority described in NRS 584.325 to 584.690, inclusive.

[37: 387: 1955]

584.505 Investigations; records of producers and distributors.

1. The commission may investigate, upon reasonable notice, any and all transactions between producers and distributors or among distributors or between distributors and retail stores or between distributors and consumers or between retail stores and consumers; and the commission or its authorized agents

may enter at all reasonable hours all places where milk is stored, bottled or manufactured, or where milk or milk products are bought, sold or handled, or where the books, papers, records or documents relating to such transactions are kept, and may inspect and copy any such books, papers, records or documents.

2. Each producer and distributor shall maintain adequate records concerning his transactions in fluid milk and fluid cream.

[38:387:1955]—(NRS A 1959, 895)

584.510 Licensing of distributors and registration of producers. The commission may issue licenses to distributors and require the registration of producers.

[39:387:1955]

584.515 Formulation of plan. The commission may formulate any stabilization and marketing plan as prescribed in NRS 584.325 to 584.690, inclusive, and declare the same effective after public hearing and reasonable notice by mail or otherwise to all producers and distributors of record with the commission affected by such plan.

[40:387:1955]

584.520 Amendment or termination of plan: Procedure.

1. The commission may amend or terminate any stabilization and marketing plan, after notice and public hearing as prescribed in NRS 584.550 to 584.565, inclusive, if it finds that such plan is no longer in conformity with the standards prescribed in, or will not tend to effectuate the purposes of, NRS 584.325 to 584.690, inclusive.

2. Such hearing may be held upon the motion of the commission and shall be held upon receipt of a petition signed by producers representing not less than 55 percent of the total number of all of the producers and not less than 55 percent of the total production of all producers who are eligible to petition the commission for the formulation of such plan.

3. Notwithstanding the provisions of subsections 1 and 2 of this section, if the producers wish to abandon an existing stabilization and marketing plan and establish a Federal Milk Marketing order or other similar type of milk marketing order, the commission may continue a marketing and stabilization plan in effect for any given area, insofar as wholesale and retail provisions are concerned, whenever it appears that 55

percent of the distributors in any given area, whose major interest in the fluid milk and fluid cream business consists of at least 55 percent of the fluid milk and fluid cream distributed within the area by volume, desire that the wholesale and retail provisions, including price regulations, be continued.

4. Notwithstanding the provisions of subsections 1, 2 and 3 of this section, areas which are nonproducing may terminate a stabilization and marketing plan insofar as it affects wholesale and retail prices providing that 55 percent of the licensed distributors delivering 55 percent of the products to such area wish to terminate such plan after notice and public hearing as prescribed in NRS 584.550 to 584.565, inclusive.

[41:387:1955]—(NRS A 1959, 895)

584.525 Records. A full and accurate record of business or acts performed or of testimony taken by the commission in pursuance of the provisions of NRS 584.325 to 584.690, inclusive, shall be kept and placed on file in the office of the commission.

[45:387:1955]

584.530 Review of orders; limitation of action. Any order of the commission hereunder substantially affecting the rights of any interested party may be reviewed by any court of competent jurisdiction. Any such action must be commenced within 30 days after the effective date of the order complained of or within 30 days after the injurious effect complained of becomes reasonably apparent.

[46:387:1955]

584.535 Injunction against violation of law or order: Joinder of defendants.

1. The commission may bring an action to enjoin the violation or threatened violation of any provisions of NRS 584.325 to 584.690, inclusive, or of any order made pursuant to NRS 584.325 to 584.690, inclusive, in the district court in the county in which such violation occurs or is about to occur.

2. There may be enjoined in one proceeding any number of defendants alleged to be violating the same provisions or orders, although their properties, interests, residence or place of business may be in several counties and the violations separate and distinct.

[47:387:1955]

584.540 Cooperation with other authorities; enforcement of plans. The commission may confer, enter into agreements, or otherwise arrange with the constituted authorities of this state, other states or agencies of the United States with respect to plans relating to the stabilization and distribution of fluid milk and fluid cream within this state or as between this state and other states or the United States, and may exercise its powers hereunder to effectuate and enforce such plans.

[48:387:1955]

584.543 Assistance in enforcement by constables, sheriffs and police officers. Constables, police officers and sheriffs may render assistance to the commission, any member of the commission or any authorized representative of the commission, in the enforcement of the provisions of NRS 584.325 to 584.690, inclusive, upon request.

(Added to NRS by 1959, 901)

584.545 Disposition of money. All moneys received by the commission hereunder shall be paid monthly into the state treasury to the credit of the dairy commission fund.

[49:387:1955]

FORMATION AND ADOPTION OF STABILIZATION AND MARKETING PLANS

584.550 Designation of marketing areas; additional areas; modification or consolidation of areas.

1. The commission shall designate marketing areas which it deems necessary or advisable to effectuate the purposes of NRS 584.325 to 584.690, inclusive, and wherein it finds the conditions affecting the production, distribution and sale of fluid milk, fluid cream or both are reasonably uniform.

2. The commission shall have the power to establish additional areas or to modify areas theretofore established when it deems the establishment or modification of such areas necessary or advisable to effectuate the purposes of NRS 584.325 to 584.690, inclusive.

3. When the commission finds, after a public hearing in and for each particular marketing area under consideration for consolidation, that conditions of production and distribution are reasonably uniform in two or more such marketing areas wherein stabilization and marketing plans are in effect, it may

consolidate the area, provided that at the hearings more than 35 percent of the producers present who supply the areas proposed to be consolidated do not object to such consolidation.

[50: 387: 1955]

584.555 Hearing to determine whether producers desire fluid milk plan. The commission shall, prior to the formulation of a stabilization and marketing plan for fluid milk for any marketing area, conduct a public hearing in the area for the purpose of determining whether or not producers whose major interest in the fluid milk business is in the production of fluid milk for the marketing area, and who represent not less than 65 percent of the total number of producers whose major interest in the fluid milk business is in the production of fluid milk for the marketing area, and who produce not less than 65 percent of the total volume of the fluid milk produced for the marketing area by all such producers, desire that a stabilization and marketing plan for fluid milk be formulated for the area; but if a petition is presented to the commission by the producers whose major interest in the fluid milk business is in the production of fluid milk for the marketing area, and who represent not less than 65 percent of the total number of producers whose major interest in the fluid milk business is in the production of fluid milk for the marketing area, and who produce not less than 65 percent of the total volume of the fluid milk produced for the marketing area by all such producers, it shall not be necessary that such hearing be held.

[51: 387: 1955]

584.560 Hearing to determine whether producers desire fluid cream plan. The commission shall, prior to the formulation of a stabilization and marketing plan for fluid cream for any marketing area, conduct a public hearing in the area for the purpose of determining whether or not producers whose major interest in the fluid cream business is in the production of fluid milk for fluid cream for the marketing area, and who represent not less than 65 percent of the total number of producers whose major interest in the fluid cream business is in the production of fluid milk for fluid cream for the marketing area, and who produce not less than 65 percent of the total volume of fluid milk for fluid cream produced for the marketing area by all such producers, desire that a stabilization and marketing plan for fluid cream be formulated for the area; but if a petition is presented to the commission by producers whose

major interest in the fluid cream business is in the production of fluid milk for fluid cream for the marketing area, and who represent not less than 65 percent of the total number of producers whose major interest in the fluid cream business is in the production of fluid milk for fluid cream for the marketing area, and who produce not less than 65 percent of the total volume of fluid milk for fluid cream produced for the marketing area by all such producers, it shall not be necessary that such hearing be held.

[52: 387: 1955]

584.565 Formulation of plan: Notice; hearing; order declaring plan in effect.

1. If the commission finds that a stabilization and marketing plan is necessary to accomplish the purposes of NRS 584.325 to 584.690, inclusive, it shall formulate a stabilization and marketing plan for fluid milk or fluid cream or both for such area and issue a notice of public hearing upon the plan formulated to all producers and distributors of record with the commission who may be subject to the provisions of such plan.

2. The notice of hearing may be effected by mail or by publication for 5 successive days in a newspaper of general circulation in the area designated and shall specify the time and the place of such hearing, which shall not be held prior to 10 days from the mailing or from the final publication of such notice; but if no daily newspaper of general circulation is published in the area designated, publication of notice for 2 successive weeks in a weekly newspaper of general circulation in the area will be considered proper publication of notice.

3. At the hearing, interested persons shall be heard and records kept of the proceedings of such hearing for determination by the commission whether the plan proposed will accomplish the purposes of NRS 584.325 to 584.690, inclusive.

4. If, after public hearing, the commission determines that the proposed plan will tend to accomplish the purposes of NRS 584.325 to 584.690, inclusive, within the standards herein prescribed, it shall issue an order to all producers and distributors of record with the commission and subject to the provisions of such plan, declaring such plan in effect within 30 days from the date of such hearing.

[53: 387: 1955]

584.568 Minimum prices; discounts.

1. Each stabilization and marketing plan shall contain provisions fixing the price at which fluid milk and fluid cream may be sold by producers, distributors and retailers and regulating all discounts allowed by producers, distributors and retailers.

2. In determining the minimum prices to be paid by distributors to producers the commission shall consider, but not be limited to, the following factors:

(a) Cost of production.

(b) Reasonable return upon capital investment.

(c) Producer transportation costs.

(d) Cost of compliance with health regulations.

(e) Current and prospective supplies of fluid milk and fluid cream in relation to current and prospective demands for such fluid milk and fluid cream.

3. In determining the minimum prices to be paid by retailers to wholesalers and by consumers to retailers the commission shall consider, but not be limited to, the following factors:

(a) The quantities of fluid milk or fluid cream, or both, distributed in the marketing area covered by the stabilization and marketing plan.

(b) The quantities of fluid milk or fluid cream, or both, normally required by consumers in such marketing area.

(c) The cost of fluid milk or fluid cream, or both, to distributors and retail stores, which in all cases shall be, respectively, the prices paid by distributors to producers and the minimum wholesale prices, as established pursuant to NRS 584.325 to 584.690, inclusive.

(d) The reasonable cost of handling fluid milk or fluid cream, or both, incurred by distributors and retail stores, respectively, including all costs of hauling, processing, selling and delivering by the several methods used in such marketing area in accomplishing such hauling, processing, selling and delivering, as such costs are determined by impartial audits of the books and records, or surveys, or both, of all or such portion of the distributors and retail stores, respectively, of each type or class in such marketing area as are reasonably determined by the commission to be sufficiently representative to indicate the costs of all distributors and retail stores, respectively, in such marketing area.

(Added to NRS by 1959, 899)

584.570 Unfair practices; certain practices of distributors prohibited whether plan in effect or not.

1. No distributor may engage in any of the practices set forth in paragraphs (a) to (d), inclusive, of subsection 2 of this section, whether or not a stabilization and marketing plan is in effect in the area in which he carries on his business.

2. Each stabilization and marketing plan shall contain provisions for prohibiting distributors and retail stores from engaging in the unfair practices hereinafter set forth:

(a) The payment, allowance or acceptance of secret rebates, secret refunds or unearned discounts by any person, whether in the form of money or otherwise.

(b) The giving of any milk, cream, dairy products, services or articles of any kind, except to bona fide charities, for the purpose of securing or retaining the fluid milk or fluid cream business of any customer.

(c) The extension to certain customers of special prices or services not made available to all customers who purchase fluid milk or fluid cream of like quantity under like terms and conditions.

(d) The purchase of any fluid milk in excess of 200 gallons monthly from any producer or association of producers unless a written contract has been entered into with such producer or association of producers stating the amount of fluid milk to be purchased for any period, the quantity of such milk to be paid for as class 1 in pounds of milk or pounds of milk fat or gallons of milk, and the price to be paid for all milk received. The contract shall also state the date and method of payment for such fluid milk, which shall be that payment shall be made for approximately one-half of the milk delivered in any calendar month not later than the 1st day of the next following month and the remainder not later than the 15th day of the month, the charges for transportation if hauled by the distributor, and may contain such other provisions as are not in conflict with NRS 584.325 to 584.690, inclusive, and shall contain a proviso to the effect that the producer shall not be obligated to deliver in any calendar month fluid milk to be paid for at the minimum price for fluid milk that is used for class 3, as that class is defined in NRS 584.490. A signed copy of such contract shall be filed by the distributor with the commission within 5 days from the date of its execution. The provisions of this subsection relating to dates of payment shall not apply to contracts for the purchase of fluid milk from nonprofit cooperative associations of producers.

[54:387:1955]—(NRS A 1957, 264; 1959, 896)

OPTIONAL PROVISIONS

584.575 Report to producer. Each stabilization and marketing plan may contain provisions whereby distributors shall report to each producer from whom fluid milk is secured, the volume of fluid milk received from such producer in pounds of milk, and the milk fat test of such milk, and the amount of fluid milk in milk fat pounds paid for in the several classes and the prices paid for the various classes for each month.

[55: 387: 1955]

584.577 Sale prices, discounts. (Added to NRS by 1957, 264; R 1959, 901)

584.580 Purchase of milk from noncomplying producers; limitation on production. No distributor subject to the provisions of any stabilization and marketing plan shall purchase milk from producers who cannot comply with the provisions of NRS 584.325 to 584.690, inclusive, in such plan. No such plan shall involve a limitation upon the production of fluid milk or fluid cream.

[56: 387: 1955]

UNFAIR TRADE PRACTICES AND INVESTIGATION OF MARKETING AND PRICING PRACTICES

584.583 Sales of butter, fresh dairy byproducts below cost by distributors, retailers.

1. No distributor or retailer may sell butter or fresh dairy byproducts below cost. "Fresh dairy byproducts" includes but is not limited to the following items: buttermilk, skim milk, chocolate drink, ice cream, ice milk mix, sherbet, sour cream, sour cream dressing and cottage cheese; and does not necessarily define the class of fluid milk or fluid cream which is used to make such products.

2. In determining cost in the case of a manufacturing distributor, the following factors shall be included, but cost shall not necessarily be limited to such factors:

(a) Cost of raw products based on actual cost or on current and prospective supplies of fluid milk and fluid cream in relation to current and prospective demands for such fluid milk and fluid cream.

(b) Cost of production.

(c) Reasonable return upon capital investment.

(d) Producer transportation costs.

(e) Cost of compliance with health regulations.

(f) Overhead cost of handling based on a percentage of overall plant and sales operating cost.

3. In determining cost in the case of a peddler-distributor or retailer, the following factors shall be included, but cost shall not necessarily be limited to such factors:

(a) Purchase price of product.

(b) Overhead cost for handling.

(c) Reasonable return upon capital investment.

4. Each manufacturing distributor shall file with the commission a statement of costs, listing separately the items set forth in subsection 2 of this section and any other applicable cost factors. Such statements shall be kept current by supplement under regulations promulgated by the commission. All such statements shall be kept confidential by the commission except when used in judicial proceedings or administrative proceedings under NRS 584.325 to 584.690, inclusive.

5. Each manufacturing distributor and each peddler-distributor shall file with the commission a list of wholesale, retail and distributor or dock prices. No such distributor shall sell at prices other than those contained in such list, except in the case of bids to departments or agencies of federal, state and local governments; but in no case shall the distributor sell below cost as provided in this section.

6. The commission or any agent of the commission may examine, at any reasonable time and place, the books and records of any manufacturing distributor or peddler-distributor relating to cost and prices.

(Added to NRS by 1959, 900)

584.[illegible]34 Distributors may meet competitive prices in sales of butter, fresh dairy byproducts; information to be filed with commission.

1. Nothing in NRS 584.583 shall be construed as permitting or authorizing the development of conditions of monopoly in production or distribution of butter or fresh dairy byproducts, and a distributor who meets in good faith a lawful competitive price shall not be subject to any penalty provided in NRS 584.325 to 584.690, inclusive, if he files with the commission information detailing the circumstances surrounding the lawful competitive price within 5 days of such occurrence. Such information shall include the name and address of the distributor, the name and address of the customer involved, the

competitive price met. the effective date of such price or condition, and the name and address of the competing distributor.

2. If such information is accompanied by a written statement, signed by the customer before a notary public or two competent witnesses, that such competitive price has been offered or made available to him, such statement shall constitute prima facie evidence that a distributor is meeting such competitive price or condition in good faith.

(Added to NRS by 1959, 901)

584.585 Additional duty and authority of commission: Unfair trade practices. Pursuant to the declaration and statement of facts, policy and purposes set forth in NRS 584.325 to 584.690, inclusive, the commission is hereby vested with the additional administrative duty and authority to prescribe unfair trade practices and investigate marketing and pricing practices within marketing areas for later legislative recommendation.

[57:387:1955]

584.590 Investigation of prices in marketing area: Notice; hearing; record.

1. In investigating prices in any marketing area the commission may first make an investigation in such marketing area to establish such facts as shall be necessary to permit it to carry out the intent of NRS 584.585 and 584.590 within the standards herein prescribed. In making such investigation, the commission may, upon notice, examine the books and records of distributors and the purchase of dairy products by retail stores in such marketing area and may hold one or more public hearings, take testimony and may subpena witnesses. All testimony received at such hearings shall be under oath.

2. Notice of any hearing held by the commission pursuant to NRS 584.585 and 584.590 shall be given by the commission to every distributor and retail store in such marketing area whose name appears upon the records of the commission or who files a request for the same with the commission, by mail or by publication. The notice of hearing may be effected by mail, or by publication for 5 successive days in a newspaper of general circulation in the area designated, and shall specify the time and place of such hearing, which shall not be held prior to 10 days from the mailing or from the final publication of such notice; but if no daily newspaper of general circulation

is published in the area designated, publication of notice for 2 successive weeks in a weekly newspaper of general circulation in the area will be considered proper publication of notice.

3. A record of any and all hearings held by the commission pursuant to NRS 584.585 and 584.590 shall be made and filed in the office of the commission and shall, at all times, be available to inspection by any interested person.

[58: 387: 1955]

DISTRIBUTORS: LICENSES, FEES AND BONDS

584.595 Necessity for license; application; form and contents; term; renewal.

1. No distributor may deal in fluid milk, fluid cream or any other dairy product without first having obtained a license from the commission.

2. The special licenses provided in this section are in addition to any and all licenses otherwise required by any law or ordinance of any county or municipality of this state or any law of this state.

3. Application for the licenses herein provided shall be made on forms prescribed by the commission, shall be accompanied by an application fee of $3, and shall state the name and address of the applicant and such details as to the nature of the applicant's business as the commission may require. Such applicant shall satisfy the commission:

(a) Of the applicant's good faith, character and responsibility in seeking to carry on the business stated in the application.

(b) That the applicant has complied with all laws of the State of Nevada and regulations promulgated thereunder, regardless of whether the applicant is a local or out-of-state distributor.

4. Licenses shall be issued for a period of 12 months from the 1st day of each year or for the remainder of the calendar year from the date of issuance.

5. Application for renewal of a license for the following year by a licensee, together with the application fee of $3, shall be made prior to the expiration date of the license held, and if not so made, the applicant shall pay an additional sum equal to 100 percent of the application fee before such license shall be issued.

[59: 387: 1955]—(NRS A 1959, 897)

584.600 Bond: Amount; form and conditions; proceedings for enforcement.

1. Every distributor before purchasing any fluid milk or fluid cream from a producer must execute and deliver to the commission a surety bond in the minimum sum of $1,000 executed by the applicant as principal and by a surety company qualified and authorized to do business in this state as surety.

2. The bond shall be upon a form approved by the commission and shall be conditioned upon the payment in the manner required by NRS 584.325 to 584.690, inclusive, of all amounts due to producers for fluid milk and fluid cream purchased by such licensee or applicant during the license year. The bond shall be to the state in favor of every producer of fluid milk and fluid cream.

3. In case of failure by a distributor to pay any producer or producers for fluid milk or fluid cream in the manner required by NRS 584.325 to 584.690, inclusive, the commission shall proceed forthwith to ascertain the names and addresses of all producer-creditors of such distributor, together with the amounts due and owing to them and each of them by such distributor, and shall request all such producer-creditors to file a verified statement of their respective claims with the commission. Thereupon, the commission shall bring an action on the bond on behalf of the producer-creditors.

4. Upon any action being commenced upon the bond, the commission may require the filing of a new bond and immediately upon a recovery in any action upon such bond, such distributor shall file a new bond, and upon failure to file the same within 10 days in either case, such failure shall constitute grounds for the revocation or suspension of the license of such distributor.

5. In the event that recovery upon the bond is not sufficient to pay all of the claims as finally determined and adjudged by the court, any such amount recovered shall be divided pro rata among the producer-creditors.

[60:387:1955]

584.605 Amounts of bonds. The amount of the bond required by NRS 584.600 shall be based upon the highest daily average of fluid milk purchased by the distributor in any calendar month during the license year, measured in gallons as follows:

Less than 100 gallons	$1,000
100 but less than 200	2,000
200 but less than 300	3,000
300 but less than 400	4,000
400 but less than 500	5,000
500 but less than 1,000	6,000
1,000 but less than 2,000	8,000
2,000 but less than 3,000	10,000
3,000 but less than 4,000	15,000
4,000 but less than 5,000	20,000
5,000 or more	25,000

[61:387:1955]—(NRS A 1959, 897)

584.610 Increase of purchases. In the event that any distributor so increases his purchases of fluid milk during the license year that such purchases exceed the amount for which the distributor is bonded, the distributor shall within a reasonable time post an additional bond or bonds as may be required to comply with the provisions of NRS 584.595 to 584.645, inclusive.

[62:387:1955]

584.615 Licenses and bonds: Of whom required.

1. The licenses and bonds provided for in NRS 584.595 to 584.645, inclusive, shall be required for each distributor, and for the purposes of NRS 584.595 to 584.645, inclusive, each subsidiary milk plant or branch milk plant, whether under one ownership or not, shall be considered as an individual distributor.

2. No bond shall be required of a cooperative association of producers.

[63:387:1955]

584.620 "Milk plant" defined. For the purposes of NRS 584.595 to 584.645, inclusive, a milk plant shall be any place, structure or building where a distributor receives fluid milk or fluid cream and weighs or tests or standardizes or pasteurizes or homogenizes or separates or bottles or packages such fluid milk or fluid cream, except that the provisions hereof shall not apply to a place or structure or building used for the purpose of receiving, weighing or testing fluid milk or fluid cream which is to be diverted or delivered to the milk plant of the distributor receiving fluid milk or fluid cream,

which milk plant is licensed and bonded under the provisions of NRS 584.595 to 584.645, inclusive.

[64:387:1955]

584.625 Failure to execute and deliver bond or post additional bond. Failure of any distributor who purchases fluid milk or fluid cream from producers to execute and deliver the bond as herein provided and required shall constitute a violation of NRS 584.325 to 584.690, inclusive; failure of any such distributor to post such additional bond or bonds as may be required to comply with the provisions of NRS 584.325 to 584.690, inclusive, shall likewise constitute a violation of NRS 584.325 to 584.690, inclusive.

[65:387:1955]

584.630 Distributors' assessments on fluid milk, fluid cream.

1. Distributors who are subject to any stabilization and marketing plan as established by the commission shall pay to the commission on all milk fat contained in fluid milk, fluid cream or both, purchased from producers, including their own production, if any, a fee in cents per pound of milk fat equal to that required to be deducted from payments due producers of fluid milk under NRS 584.635.

2. Such assessed fees received by the commission shall be used in the administration and enforcement of NRS 584.325 to 584.690, inclusive.

3. Distributors who import dairy products into the State of Nevada that contain milk fat, which products or the milk fat content thereof have not been subject to assessment by the State of Nevada, shall be assessed at the same rate on the content of milk fat contained in such products as Nevada distributors are assessed on fluid milk or fluid cream which go into the manufacture of such type products.

[66:387:1955]—(NRS A 1959, 898)

584.633 Distributors' assessments on butter, fresh dairy byproducts.

1. The commission shall assess each distributor of butter the sum of one-half cent per pound on all butter distributed by such distributor.

2. The commission shall assess all distributors of fresh dairy byproducts the sum of 2 cents per gallon on all ice cream,

sherbet, or ice cream or ice milk mixes, and the sum of one-fourth cent per pound on all cottage cheese, distributed by such distributors.

3. Assessments under this section shall be paid to the commission on or before the 15th of the month following the month during which the butter or fresh dairy byproducts were distributed. Late payments shall be subject to the same penalty as that provided by subsection 4 of NRS 584.635.

(Added to NRS by 1959, 901)

584.635 Assessment of sellers to distributors; penalties for delinquent payments.

1. Distributors who are subject to the provisions of any stabilization and marketing plan made effective by NRS 584.325 to 584.690, inclusive, including distributors who import fluid milk or fluid cream from outside the state, whether such items are finished products or in bulk, shall deduct as an assessment from payments due their sellers, whether such sellers are producers or distributors, and whether within or without the state, for fluid milk, fluid cream or both, including each distributor's own production, the sum of one-half cent per pound milk fat on all milk fat contained in fluid milk, fluid cream or both, or in the case of distributors who do not purchase or receive fluid milk, in milk fat pounds, the sum of 1½ cents for each 10 gallons of fluid milk sold. Such assessment rates are maximum rates.

2. The commission may fix the rate of such assessment at a less amount, and may adjust the rate from time to time, whenever it finds that the cost of administering the provisions of NRS 584.325 to 584.690, inclusive, can be defrayed from revenues derived from such lower rates in combination with such sums as are provided by NRS 584.630.

3. The amount of the assessment so deducted shall be paid to the commission on or before the 15th of the month following the month during which such fluid milk or fluid cream was received.

4. If payments of assessments are not made on or before the 15th day of each month following the month during which the fluid milk or fluid cream was received or following the date upon which any other assessment falls due, the commission shall charge, as a penalty for such late payment, the amount of 1 percent per month of the total amount due and owing, but remaining unpaid.

[67:387:1955]—(NRS A 1959, 898)

584.640 Distributor purchasing from producer-distributor: When bond not required; notice to commission; record of purchases; reports.

1. No bond shall be required of any distributor who purchases fluid milk or fluid cream from a producer-distributor; provided:

(a) That the buyer at the time of obtaining possession or control of each delivery pays for the same in full in lawful money of the United States; and

(b) That the fluid milk or fluid cream is purchased in package form ready for human consumption and not in bulk form.

2. Any distributor before purchasing fluid milk or fluid cream on the terms stated in subsection 1 shall notify the commission of his intention to make such purchases, stating from whom and the average daily quantity of such purchases. Such distributor shall also keep a record of such purchases, showing dates of purchases, amounts of purchases, and the name or names of seller or sellers, and shall make such other and further reports to the commission as it may from time to time require.

[68: 387: 1955]

584.645 Provisions of NRS 584.595 to 584.640 inapplicable to retail stores. The provisions of NRS 584.595 to 584.640, inclusive, with respect to licenses shall not apply to retail stores as such stores are defined in NRS 584.380.

[69: 387: 1955]

REPORTS AND STATISTICS

584.650 Reports and records by distributors. Every distributor who purchases fluid milk or fluid cream from a producer shall make and keep for 1 year a correct record showing in detail the following with reference to the handling, sale or storage of such fluid milk or fluid cream:

1. The name and address of the producer.
2. The date the fluid milk or fluid cream was received.
3. The amount of fluid milk or fluid cream received.
4. The official butterfat test of the fluid milk or fluid cream if purchased on a butterfat basis.
5. The usage of the fluid milk or fluid cream.
6. Evidence of payment for the fluid milk or fluid cream purchased.

[70: 387: 1955]

584.635 Records and reports confidential. Any record or report made to the commission pursuant to the provisions of NRS 584.650 to 584.665, inclusive, shall be confidential and shall not be divulged except when necessary for the proper determination of any court proceedings or hearing before the commission.

[71:387:1955]

584.660 Biennial report to governor. The commission shall, within 30 days prior to each general session of the legislature, submit to the governor a full and true report of the transactions under NRS 584.325 to 584.690, inclusive, during the preceding biennium, including a complete statement of receipts and expenditures during such period, together with its legislative recommendations.

[72:387:1955]

584.665 Collection, dissemination of statistical and other data. In addition to the compilation of information pertaining to fluid milk and fluid cream from the reports required by NRS 584.325 to 584.690, inclusive, the commission shall collect, assemble, compile, and distribute statistical data relative to fluid milk, fluid cream, other milk and milk products, and such other information as may relate to the dairy industry and the provisions of NRS 584.325 to 584.690, inclusive.

[73:387:1955]

PENALTIES

584.670 Misdemeanors; revocation, suspension of license; civil penalties.

1. The violation of any provision of NRS 584.325 to 584.690, inclusive, or of any stabilization and marketing plan, including the price requirements of such plan, or of any of the unfair practice provisions set forth in such sections, is a misdemeanor, and also is ground for revocation or suspension of license in the manner set forth in NRS 584.325 to 584.690, inclusive.

2. Every distributor must pay for fluid milk or fluid cream delivered to him or it at the time and in the manner specified in the contract with the producer. Failure to make such payment is hereby declared to be ground for refusal, suspension or revocation of license in the manner set forth in NRS 584.325 to 584.690, inclusive.

3. In addition to, or in lieu of, any other penalty provided

by NRS 584.325 to 584.690, inclusive, the commission may impose, upon any person subject to any penalty under subsection 1 of this section, a penalty of $500 for each violation, to be recovered by the commission in a civil action in a court of competent jurisdiction. All sums recovered under this subsection shall be paid into the state treasury to the credit of the dairy commission fund and shall be expended solely for the enforcement of NRS 584.325 to 584.690, inclusive.

[74: 387: 1955]—(NRS A 1959, 899)

DISCIPLINARY PROCEEDINGS

584.675 Refusal, revocation or suspension of license.

1. The commission may refuse to grant any license herein provided and may revoke or suspend any such license as the case may require when it is satisfied that any applicant or licensee has violated any provision of NRS 584.325 to 584.690, inclusive; but no order shall be made refusing, revoking or suspending any license except after hearing upon at least 10 days' notice to the applicant or licensee.

2. The decision may include an order refusing, revoking or suspending the license applied for or held by the respondent, or fixing such other conditional and probationary orders as may be proper for the enforcement of NRS 584.325 to 584.690, inclusive.

3. After any decision, including any conditional or probationary orders, should respondent fail, refuse or neglect to comply with any such orders, the commission may suspend or revoke the license in accordance with the procedure provided in this section.

4. Previous violation by any applicant or by any person connected with the applicant of any provision of NRS 584.325 to 584.690, inclusive, shall be good and sufficient ground for denial, revocation or suspension of a license.

[75: 387: 1955]

584.680 Emergency cases: Shortening time for hearing; service of notice; place of hearing.

1. Whenever the commission is satisfied, either by investigation or after hearing, that a distributor is unable to pay for fluid milk or fluid cream purchased from producers and is further satisfied that to permit the distributor to continue

to purchase and receive fluid milk or fluid cream from producers would be likely to cause serious and irreparable loss to producer-creditors and other producers, then the commission within its discretion may thereupon and forthwith shorten the time for hearing and thereupon may issue an order to show cause why the license of the distributor should not be forthwith suspended or revoked; but the time of notice of the hearing shall in no event be less than 5 days.

2. At such hearing the distributor proceeded against shall be ordered to show cause why his or its license should not be suspended or revoked or continued under such conditions and provisions, if any, as the commission may consider just and proper and for the protection of the best interests of the producer-creditors and producers from whom the distributor has been and is receiving fluid milk or fluid cream.

3. Following such hearing, the decision of the commission shall become effective at its discretion.

4. The hearing, in the case of such emergency, may be called upon written notice, the notice to be served personally or by mail on the distributor involved, and may be held at the nearest office of the commission or at such place as may be most convenient in the discretion of the commission for the attendance of all parties involved.

[76:387:1955]

584.685 Judicial review.

1. Any decision of the commission in the absence of an appeal therefrom as herein provided shall become final 20 days after the date of notification or mailing thereof. The commission shall be deemed to be a party to any judicial action involving any such decision, and may be represented in any such judicial action by any qualified attorney employed by it and designated by it for that purpose, or, at the commission's request, by the attorney general.

2. Within 20 days after the decision of the commission, any party aggrieved thereby may secure judicial review thereof by commencing an action in the district court of the county in which the aggrieved party resides. Upon filing of the appeal, the enforcement of the commission's order shall be stayed pending final disposition of the appeal.

3. If the order is affirmed, it shall become final and conclusive and the stay of enforcement shall be automatically

vacated. With its answer, the commission shall certify and file with the court all documents, papers and a transcript of all testimony taken in the matter, together with the commission's findings of fact and decision therein.

4. Upon the final determination of such judicial proceedings, the commission shall enter an order in accordance with such determination.

[77: 387: 1955]

CONSTRUCTION AND INTERPRETATION

584.690 Applicability to retail stores. NRS 584.325 to 584.685, inclusive, shall apply to retail stores in the following particulars only:

1. The examination by the commission of the purchase records of retail stores from distributors.

2. The unfair practices prohibited in NRS 584.570.

3. The provisions of any stabilization and marketing plan which includes retailers.

[78: 387: 1955]—(NRS A 1957, 264; 1959, 899)

APPENDIX B

The pertinent provisions of the Nevada State Dairy Commission Regulations, as amended, are as follows:

ARTICLE VI

PRICING AND COST

SECTION B DISTRIBUTORS

1. The minimum wholesale prices for fluid milk and fluid cream sold to departments or agencies of the federal, state and local government, licensed hospitals, and accredited schools may be reduced not to exceed five percent (5%) below minimum wholesale price contained in the appropriate area schedules, providing that for payment within thirty (30) days an additional one percent (1%) may be allowed; also,

a. The minimum prices for fluid milk and fluid cream sold to licensed rest homes or licensed day nurseries, limited to rest homes caring for five or more patients or day nurseries caring for ten or more children, may be the minimum wholesale price contained in the appropriate area schedules.

b. The above accounts may be billed on a monthly basis.

2. Distributors will file with the Commission by the 31st of January each year a list of peddler-distributors with whom business is done, containing the following information:

a. Name and address.

b. Marketing area and zone number served.

c. Location of place where products are delivered or picked up.

3. A distributor shall not sell to another distributor or peddler-distributor below cost.

4. Each manufacturing distributor and each peddler-distributor shall file with the Commission a list of wholesale, retail, and distributor or dock prices. No such distributor shall sell at prices other than those contained in such list, except in the case of bids to departments or agencies of the federal, state and local government, licensed hospitals, and accredited schools, but in no case shall the distributor sell below cost.